

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEBRASKA

UNITED STATES OF AMERICA,

Plaintiff,

v.

STACY ALLEN,

Defendant.

8:16CR205

ORDER

This matter is before the Court on defendant Stacy Allen’s (“Allen”) requests for appointed counsel (Filing No. 92) and leave to proceed in forma pauperis (“IFP”) (Filing No. 93) on appeal. Allen filed the Notice of Appeal (Filing No. 76) on October 5, 2018. Subsequently, the Eighth Circuit Court of Appeals denied Allen’s motion for appointment of counsel on appeal (Filing No. 89) and his counsel’s motion to withdraw as counsel on appeal (Filing No. 91) because this Court had not made a determination of Allen’s IFP status.

On careful review of Allen’s application, the Court finds Allen’s request to proceed IFP satisfies the requirements of 28 U.S.C. § 1915 and Federal Rule of Appellate Procedure 24(a)(1).¹ Therefore, Allen will be allowed leave to proceed IFP on appeal.

Because the Eighth Circuit Court of Appeals denied Allen’s counsel’s request to withdraw, Allen’s request for appointed counsel on appeal is denied without prejudice. *See* 8th Cir. R. 27B(a) (“Defendant’s trial counsel, whether retained or appointed, shall represent the defendant on appeal, unless the Court of Appeals grants permission to withdraw.”). Accordingly,

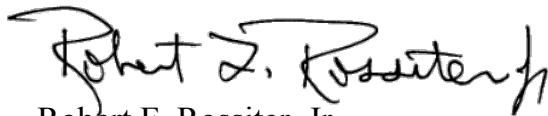
¹Although Allen did not file a separate motion for leave to proceed IFP as required by Rule 24(a), the Court will construe Allen’s affidavit as a motion.

IT IS ORDERED:

1. Allen's motion for leave to proceed in forma pauperis on appeal (Filing No. 93) is granted.
2. Allen's request for appointed counsel on appeal (Filing No. 92) is denied without prejudice.
3. The Clerk's Office is directed to forward a copy of this Order to the Eighth Circuit Court of Appeals.

Dated this 29th day of November 2018.

BY THE COURT:



Robert F. Rossiter, Jr.
United States District Judge